

DATE: October 31, 1986

TO: Captain D. A. Hall, Traffic Division
FROM: City Attorney
SUBJECT: Proposed Agreement with United States
International University in Regard to
Processing Parking Citations

You forwarded and requested our review of a letter from United States International University (USIU). The correspondence addressed a tentative agreement between the university and the city, whereby USIU could issue parking citations to be processed through the City Treasurer. The letter also proposed a memorandum of understanding empowering the university to issue "promises to appear", in accordance with Penal Code section 830.7(b). Our review indicates that there is no impediment to an agreement providing for USIU's issuing parking citations to be processed through the City Treasurer. Empowering USIU security officers with limited peace officer status under Penal Code section 830.7(b) is an independently related issue which will be discussed separately.

1. PARKING CITATIONS AND PROCESSING

Vehicle Code section 21113(a) provides in part that the governing officers of a tax-exempt educational institution may regulate public automobile traffic on the school's grounds. In discussing the applicability of the section to USIU, a private institution, the case of *United Stanford Employees v. Board of Trustees*, 67 Cal.App.3d 319 (1977) is additional authority for the proposition that a private institution of higher education may agree with the local police authority to issue parking citations for violations of the school's parking regulations. In *United Stanford*, the court held that a "violation of Vehicle Code section 21113 may result in the issuance of a citation by the Sheriff of Santa Clara County." *Id.* at 322. The facts in the above case suggest that Stanford University (a private, tax-exempt university) agreed with the Santa Clara County Sheriff's Department that violations of Stanford's parking regulations

would be handled by the sheriff's office. The court held section 21113 authorized such an arrangement. USIU would also qualify upon establishing that it is a tax-exempt institution for purposes of Vehicle Code section 21113. There are at present approximately eight agreements between the City Treasurer and local agencies involving the processing of parking citations. Council resolution R-254597-1 is an example of this type of

agreement. In general, the City Treasurer processes the citations for an administrative fee of approximately thirty percent (30%). This office is available to assist in the preparation of such an agreement, as desired.

Based on the above, if USIU were to establish that it was an "educational institution exempted, in whole or in part, from taxation" (Vehicle Code section 21113(a)), then an agreement with the City Treasurer for the processing parking citations appears to be legally possible.

2. LIMITED PEACE OFFICERS STATUS

USIU has requested specific authority to arrest under Penal Code section 830.7(b) pursuant to a memorandum of understanding. Granting such authority to the university would require that USIU security officers first participate in the course of instruction and become certified as described in Penal Code section 832. The university states that such authorization would rarely be implemented, but apparently believes that it requires the flexibility to issue an occasional promise to appear.

There is no requirement that persons issuing parking citations be peace officers. Vehicle Code section 41103(a), in describing the procedure for affixing a parking violation notice to a motor vehicle, is silent in regard to the status of the one preparing the notice. Attorney General Opinion No. 80-413 concludes specifically that a city may employ persons who are not peace officers to issue notices of parking violations, and that there are no training requirements for such persons. Vehicle Code section 22507.9 provides for enforcement of handicapped parking by special units comprised of persons who are not peace officers. In view of the above, there is no bar to parking violation citations being issued by USIU employees without peace officer status. Since the stated concerns of USIU are with parking violations not involving powers of arrest, resolution of this area could be accomplished without invoking Penal Code section 830.7(b). Should the department, however, decide to grant USIU security officers powers of arrest by means of a memorandum of understanding, the agreement should be tailored to permit issuance of promises to appear in narrowly defined circumstances only.

SUMMARY

If USIU is able to establish itself as a tax-exempt institution under Vehicle Code section 21113, then a valid agreement may be executed whereby the City Treasurer would process parking citations issued by USIU employees. Accomplishment of the above goal would not require USIU security

personnel to possess powers of arrest, but the Department could extend such powers to trained and certified USIU employees by means of a memorandum of understanding.

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By

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